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Socialist Concepts of Sovereignty: The Case for Romania

Introduction

ON SEPTEMBER 26, 1968, *Pravda* declared that "a socialist state that is in a system with other states constituting a socialist commonwealth, cannot be free of the common interest of that commonwealth." This, in the wake of the Soviet intervention in

Czechoslovakia, represented the core of the "Brezhnev Doctrine" of limited sovereignty. Brezhnev personally reiterated this principle on November 12, 1968 in a speech at the Fifth Congress of the Polish United Workers

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Party, in Warsaw. He stated *inter alia*:

When the internal and external forces hostile to socialism seek to turn back the development of any socialist country, to restore the capitalist order, when a threat emerges to the cause of socialism in that country, a threat to the security of the socialist commonwealth as a whole, this is no longer a matter only for the people of the country in question, but is also a common problem which is a matter of concern for all socialist countries.¹

He later denied the existence of such a doctrine in a speech he made in Belgrade in 1971,² but this denial has been met with skepticism in the West, because the position of sovereignty in the socialist bloc is still not entirely clear.

However, the concept of sovereignty is not only crucial to the policies of the smaller socialist states such as Romania, which try to maintain their autonomy, but it also represents a key element of international law. Sovereignty in ordinary usage is understood to be a state of independence from internal or external authority. This cannot, however, explain the use of the concept of sovereignty in relations among the Soviet bloc states and the evolution of "socialist international law."

¹ L. Brezhnev, Scânteia, Sept. 25, 1971.

² *Id.*

"Sovereignty" itself incorporates the phenomenon of the nation-state. In the socialist context the qualities of this phenomenon are determined by ideological development. Marxism-Leninism has gone through a number of phases regarding the viability and the future of the nation-state. Moreover, its notion of the nation-state has been subjected to the polycentric pull which saw Poland denounce the Soviet intervention in Hungary in 1956 and Romania vehemently oppose the Soviet intervention in Czechoslovakia in 1968. Soviet support for universal class struggle in turn has had to compete with Soviet support of national liberation and sovereignty in the emerging nations of the Third World.

In the areas dominated by the Soviet Union we see another dichotomy as expressed by Max Beloff, namely, that the Soviets impose real derogations of sovereignty on these countries, yet they respect their sovereignty in formal terms and are committed to a belief in the general validity of the concept.³ A secondary problem which also interposes itself at this stage is the increased frequency of Soviet references to "people's sovereignty." The question is whether in Eastern Europe there can be a divergence between the people or the nation and the nation-state. The answer was crucial in the Prague intervention of 1968 and remains so.

Modern industrial development creates a considerable degree of interdependence among states and the socialist countries have recognized this. Indeed, in Eastern Europe the Soviet Union has been pressing for closer cooperation and rationalization of production. However, ever closer cooperation moving towards supranational integration is seen as a threat to individual sovereignty by some of the socialist states. The conflict between sovereignty and possible supranational integration (i.e., a process of interpenetration of different aspects of a state's autonomy), extends to the common socialist bloc institutions such as the Council for Mutual Economic Assistance (Comecon) and the Warsaw Pact, and to regional cooperation as a whole.

Finally, one must also consider the purpose for which the concept of sovereignty is used. The Soviet jurist G.I. Tunkin has stated that the principles of socialist international law, of which sovereignty is still a part, cannot be compared to general international law in terminology.⁴ In his view the purpose for which they

³ Beloff, *Crisis of the European Nation-State*, in 9 *GOVERNMENT AND OPPOSITION* 1 (Winter 1974) at 25.

⁴ G. I. TUNKIN, *TEORIJA MEZHDUNARODNOGO PRAVA* 495 (2d ed. Moscow 1970)

are applied determines their character. Romania, for instance, has used the term "sovereignty" to resist socialist supranational planning. It will therefore be the purpose of this article to analyze not only variations in the socialist view of sovereignty, but also to see whether a country such as Romania can employ the concept as a defense of its autonomy in the face of the might of the Soviet Union.

Can Romania adopt the Soviet theoretical position on international law and sovereignty to justify policies at variance with those of the Soviet Union?

The Endurance of the Nation-State

The eventual withering away of the nation-state has been one of the chief assumptions of Marxist doctrine; however, as to the question of sovereignty it is essential to determine when this process will take place in order that short and long range policies can be formulated. Ralph Miliband, the British Marxist scholar, contends that orthodox Marxism anticipated that although a state of considerable duration would remain after the Revolution, it would immediately begin to wither away.⁵ Lenin also analyzed the post-revolutionary state in *The State and Revolution*, written before the 1917 Revolution. He wrote that:

Once the revolution is completed and the dictatorship of the proletariat established, after a time, more or less long, but the variable depending on the circumstances, the decline of the state would commence. What would decline would be the *Proletarian half-state or the transitional type of state*. [Emphasis added]⁶

Thus, Lenin went further than Marx and stated that on the morrow of the Revolution the state would not only begin to wither away but would already be in an advanced state of decomposition. While there would still be a revolutionary power in existence it would not be exercised by the state in the usual manner. Lenin notes that, "it is a state nevertheless," but "in the shape of armed workers who proceed to form a militia involving the entire population."⁷ The

in Hazard, *Renewed Emphasis upon a Socialist International Law*, 65 AM. J. INT'L L. 142, 145.

⁵ Miliband, *State and Revolution*, in LENIN TODAY 78 (Sweezy and Maldoft eds. 1970).

⁶ CHAMBRE, FROM KARL MARX TO MAO 185 (1963).

⁷ V. I. LENIN, 9 SELECTED WORKS 336 (Lawrence and Wishard pubs. 1937).

proletariat would govern but not dominate. The bureaucracy would be drastically reduced in size and would remain utterly restrained by direct popular supervision backed up by the power of instant revocability, while the other key institution, the army, would be abolished. Finally, the "rotten parliamentarism of bourgeois society would be replaced by the Soviets."⁸ Therefore, at this stage Lenin considered the class struggle the most important part of the transition to communism. State sovereignty seemed only incidental to him. Nor did he give much consideration at this point to national liberation or equality among states.

The State and Revolution raised a great many problems. The dictatorship of the proletariat is inconceivable without some degree of political articulation and leadership, which in turn implies political organization. Nor did Lenin clarify in this work what the relationship would be between the proletariat, whose dictatorship the revolution is deemed to establish, and the vanguard party which educates, leads, directs and organizes. However, by 1919 Lenin did say:

Yes, the dictatorship of one party. We stand upon it and cannot depart from this ground, since this is the party which in the course of the decades has won for itself the position of the vanguard of the whole factory, and industrial proletariat.⁹

Thus, by 1919, he asserted the exclusive guidance of the party in a nation-state. Furthermore, Lenin held that the attempt to distinguish between the dictatorship of the class and the dictatorship of the party was "an unbelievable and inextricable confusion of thought."¹⁰ By 1921, as Robert V. Daniels notes, Lenin bluntly asserted that "the dictatorship of the proletariat is impossible except through the Communist Party" (i.e., the state organ).¹¹ Thus, *The State and Revolution* seems to be something of an aberration in Lenin's work, for he held out for state supremacy after the Revolution. Moreover, he would not admit to any possible dichotomy between the state, controlled by the Communist Party, and the interests of the proletariat. It is also significant to note from the very beginning Soviet doctrine was made quite flexible in order to comply with "objective realities." Faced with the failure of the

⁸ Miliband, *supra* note 5, at 81.

⁹ *Id.* at 84.

¹⁰ CARR, 1 THE BOLSHEVIK REVOLUTION 230 (London 1950).

¹¹ Daniels, *The State and Revolution*, in 12 AMERICAN SLAVIC AND EAST EUROPEAN REVIEW 24 (1953).

Revolution to spread to Western Europe and with the complexities of governing a vast state, Lenin would change his view on the state and class struggle or at the very least reorganize his priorities.

Stalin placed heavy emphasis on the continuation of the state. Whereas one may claim that Lenin's post-Revolutionary stance on the state was a tactical move based on certain general theoretical assumptions, a move influenced by events in Western Europe, Stalin's position had a sturdier theoretical framework. Stalin believed that the role of the state in a socialist nation-state must be that of an indispensable tool for the acceleration of "inevitable" historical trends and that this positive role of the state deserved serious recognition in Soviet ideological perspectives.¹² He placed a growing reliance on state institutions and the administrative structure. In the wake of World War II, the Soviet state was glorified as almost co-equal the Communist Party of the Soviet Union and any undermining of the state was said to harm socialism.

The endurance and the significance of the state under socialism has continued to be recognized in the post-Stalin era. Both Khrushchev and Brezhnev have repeatedly stressed that the state continues to perform an essential function under socialism and that it is to continue for a considerable period of time. Despite the so-called "Brezhnev Doctrine" the present Soviet leader has admitted to the formal sovereign rights of states and considers international relations as still dominated by a state-centric system.

In Romania the continuance of the major role of the state appears to have an even greater amount of support in ideological-juridical thinking than in the Soviet Union. Already, in 1965 Romanian President Nicolae Ceaușescu declared that:

Our experience, as that of the other socialist states shows that the power of the state is-and will be for a long time the principal instrument for the realization of the political-economic and cultural tasks which are made more and more complex by the advancement of society. . . . [sic] The attributes of the state as organizer of the national economy, of scientific and cultural activities and in all domains of social life is growing considerably.¹³

Thus, Ceaușescu not only rejects any immediate withering away of

¹² BRZEZINSKI, *THE SOVIET BLOC: UNITY AND CONFLICT* 105 (1967).

¹³ N. Ceaușescu, *Report to the Grand National Assembly*, in *LUPTA DE CLASĂ*, Series A-VA(XLV) No. 9, at 10 (Bucharest Sept. 1965).

the state, but rather claims that in the immediate future the role of the state will be augmented.

Romanian political theoreticians and jurists have enlarged on this theory of the continuity of the state system. The Romanian Communist Party (R.C.P.) theoretician, Ilie Rădulescu, has written that Marxism-Leninism itself assumes that the state, as well as the nation, will endure for a long time to come. In this vein, he claims that the socialist state, while comprising part of the superstructure, is in a continuous process of change and perfection.¹⁴ He writes:

The elimination of the capitalist ownership of the means of production and the placing of relations of production on the basis of socialist property, creates an objective base of the rapid development of the economy, making it even more necessary for organized state intervention in overseeing the direction of the planning of the economic activities.¹⁵

Therefore, he concludes that "reality" demonstrates the justification of the thesis that the development of the forces of production and that of the socialist leadership are, "unitary in all the domains of activity and in the scope of harmonious development of the whole society."¹⁶ As his argument is supposed to be founded on the two most solid bases possible in socialism, namely Marxism-Leninism and "objective reality," it should be rather difficult for the Soviets to refute.

The theory on the continuity and on the significance of the state seems to have remarkably unanimous support among the most influential Romanian political theorists and jurists. Professor D. I. Mazilu of the Faculty of Law of the University of Bucharest, writing in the R.C.P. theoretical journal, *Lupta de Clasă*, attacked Hans Morgenthau's thesis that the prevention of a nuclear world war which would be tantamount to the destruction of civilization, required the establishment of a world state and world judicial order.¹⁷ Mazilu feels that the nation-state is and will remain for a long time a basic factor underlying the progress of society and a prime force in the development of the world community as a whole.

¹⁴ I. Rădulescu, *About The Role of Our Socialist State*, in *LUPTA DE CLASĂ*, Series A-VA(XLVI) No. 3, at 3 (Mar. 1966).

¹⁵ *Id.* at 16.

¹⁶ *Id.*

¹⁷ D. Mazilu, *In Full Accord With the Fundamental Decisions of the Epoch*, *LUPTA DE CLASĂ*, Series A-VA(LI) No. 10, at 78 (Oct. 1971).

Another theorist, V. Duculescu, writing in the new R.C.P. theoretical journal, *Era Socialistă*, claims that the socialist revolution in fact has helped to increase the significance of the sovereign state and its growing participation in international life. The state, he maintains, is the main subject of all rights and obligations arising out of international judicial relations:

It [the state] expresses the sovereign will of the nation which has created it, exercises the right of self determination and is not conditioned by the will of other judicial subjects such as international organizations constituted by agreement of the sovereign state.¹⁸

Professor Constantin Vlad, a member of the Romanian Academy of Social Sciences, continues developing the theory of the endurance and importance of the state in his new book *Essays on Nation* [sic].¹⁹ He holds that the present historical period is characterized by the "phenomenon of the nation." (He largely identifies the nation with the nation-state). Moreover, as trends towards national independence increase in the world, the nation-state, in his view, becomes more significant as a new type of "human community;" it becomes part of the framework of international relations.²⁰ This change, he claims, has largely resulted from the presence of socialist nations in the world, which represent a higher stage in the development of the nation in the form of a "community." The tenacity with which Vlad espouses the virtues of the nation-state is perhaps best illustrated by the fact that in his book he quotes Stalin on the definition of the nation.²¹ Vlad does not leave the slightest doubt that he believes that the nation-state is a lasting institution.

Finally, Romanian confidence in the endurance of the nation-state is not only reiterated domestically, but is also expressed internationally. At the IXth World Congress of the International Political Science Association at Montreal in 1973, the Romanian delegate, Professor I. Ceterchi of the Faculty of Law, University of Bucharest, expressed great confidence in the nation-state, which he claimed appeared in history at a period of high human

¹⁸ V. Duculescu, *The Sovereign State in International Relations*, 53 *ERA SOCIALISTA* 13 (Piața Scanteii, Bucharest). July 1973.

¹⁹ C. VLAD, *ESSAY ON NATION* (sic) (Bucharest 1973).

²⁰ Id. at 8.

²¹ See J. STALIN, *Marxism and the National Question* in 2 *WORKS* 218 (Bucharest 1953), cited in VLAD, *supra* note 19, at 16.

development.²² His definition of a nation bears note for the positive aspects which he emphasizes:

The nation can be defined as the highest form of ethical community in the contemporary and modern era, formed as an independent unit within the border of a territory on the basis of its national economy having an etatist political organization (represented by the nation-state) as well as a specific spiritual life expressed in the language, the psychology, the culture and the consciousness of the nation.²³

Moreover, Ceterchi believes that the transition to socialism is linked with the necessity of the assertion of the nation "at a higher level and linked to a national revival."

There is little disagreement between Soviet and Romanian views that the existence of the nation-state is justified. Writers and politicians from both states praise the development of the socialist state and see its prolonged endurance. This belief that the withering away of the state is not about to take place in the immediate future makes the concept of the nation-state rest on a continually solid basis. Thus, sovereignty is an essential element in the relationship among socialist states, especially in light of the Romanian experience.

The frequency of Romanian pronouncements on the endurance of the state are particularly striking in light of the fact that the Soviet Union itself holds for the endurance of the state. It is therefore reasonable to suppose that Romanian pronouncements on the state are part of a larger strategy which benefits by constant repetition. It is apparent that while Rădulescu, Mazilu, Duculescu, Vlad, and Ceterchi discuss the same repetitive position of the state *ad nauseam*, there are slight variations in their analyses which allow them cumulatively to cover the entire spectrum of the evolution of the state. Thus, they touch on the role of the state in classic Marxist-Leninist doctrine, in the transition from capitalism to socialism in the socialist epoch, in relation to cultural development, and in relation to "objective" domestic and international realities. The Romanians have thus fortified a key component in their theory of relations among socialist states; But, before analyzing the problem of socialist relations, there is a second question with which one must contend: whether under socialism there can be a divergence between the state and the people.

²² I. Ceterchi, *Sovereignty and Co-operation of States*, in GOVERNMENT AND OPPOSITION, pre-publication proof (London) (Mar. 1974).

²³ *Id.*

The State or the People

Most Soviet political writing and comments make little admission of the possibility of a discrepancy between the aims of the people (i.e., the nation) in a socialist state and that of the state. Indeed, in formal official doctrine there is supposed to be an "organic unity" between the two. On closer examination however, the picture shifts and the possibility of a difference between the Soviet bloc states and the Soviet bloc peoples becomes increasingly evident.

Soviet jurists of the "Tunkin School" list three subordinate principles of proletarian internationalism:

- 1) Respect for the sovereignty of socialist states on the basis of which peoples exercise the right to self-determination; 2) Non-interference in the internal affairs of another state, which reflects respect for the national peculiarities and expectations of each people; 3) full equality of socialist states which reflects the Marxist-Leninist thesis of the equality of nations and of workers' parties.²⁴

All of these principles are made subject to the will of the "people" who supposedly represent the ideal of true proletarian internationalism. Should a situation arise where the "people" in a socialist state accuse their own governmental leadership of pursuing policies that were incompatible with proletarian internationalism and ask for the assistance of fellow socialist states, then such assistance might be rendered under the theory that socialist states are under an obligation to do so.²⁵

The Soviet Union used this argument during its intervention in Hungary in 1956 and Czechoslovakia in 1968. Despite the fact that forty Czechoslovak party members were alleged to have asked for such "aid," the doctrine of "intervention by invitation" crumbled somewhat when the entire Czechoslovak Government and Communist Party promptly denied such an invitation. Nevertheless, the differentiation of the people from the state (i.e., the governing organs) in a socialist country presents a danger to the smaller East European states seeking to preserve their autonomy. Whereas socialism in official Soviet doctrine is supposed to provide an organic unity between the state and the people or nation, a differ-

²⁴ G. I. Tunkin, *V. I. Lenin i printsipy otnoshenii mezhdru sotsialisti cheskimu gosudarstvami*, in SOVETSKII EZHEGODNIK MEZHDUNARODNOGO PRAVA, 1969 (hereinafter S.E.M.P.) 16-29 (1970).

²⁵ Butler, "Socialist Internationalist Law" or "Socialist Principles of International Relations?" in 65 AM. J. INT'L L. 796-797 (1971).

entiation between the two amounts to "turning the wheels of history backwards."

In Romania, R.C.P. theoretician Ilie Rădulescu denies the existence of any dichotomy between the state and the nation.²⁶ He feels that as a result of the victory of socialism society acquires a homogeneous character. Similarly, Professor C. Vlad appears to arrive at the same view,²⁷ although he often tends to be ambiguous in his terminology. He uses the term "nation-state" interchangeably with "nation"; nevertheless, a picture emerges of the organic relationship between the nation (people) and the totality of social life on the one hand, and on the other hand, the essential characteristics of this form of human community. Since socialism in his view lacks antagonisms, the result is the creation of a socialist culture common to all. Therefore, socialist nationalism, he maintains, is different from Western nationalism in that, "it involves and promotes noble and advanced ideas."²⁸ Thus, the nation continues on a higher plane, past epochs of peoples' developments — it evolves as a whole, as an ethnical social community.

In this reference to bourgeois states, Professor Vlad indicates the existence of a divergence between the state and the nation or people, but in his discussion of socialism this becomes increasingly blurred and eventually eliminated. He states that the appearance of nations and the formation of nation-states occurred at the same time and in deep interconnection, yet he holds that it is the socialist nation-state which effects the appearance of the "community of State."²⁹ In other words, under socialism the national state as a feature of the nation turns into a community of the nation's political life — "an integrating force."³⁰ Moreover, he claims the working class further asserts itself as the most advanced social force in society. Therefore, under Vlad's reasoning there cannot be a contradiction between the nation and the state under socialism.

The above view is in turn antithetical to the Soviet theories of intervention in socialist states supposedly on behalf of the people and against the governing organs of the state. This divergence in Soviet and Romanian positions is significant in the understanding of the Romanian view of sovereignty.

²⁶ Rădulescu, *supra* note 14.

²⁷ VLAD, *supra* note 19, at 37.

²⁸ *Id.* at 45.

²⁹ *Id.* at 113.

³⁰ *Id.*

Socialist Views on Interstate Relations in Perspective

While the "Brezhnev Doctrine" may have disturbed certain contemporary views of the Soviet attitude towards international relations and law, many of the elements of the present attitude have long been entrenched in Soviet policy. During the period when the Soviet Union was the only socialist state (with the exception of a totally dependent People's Republic of Mongolia), the question of external national sovereignty was significantly less important than in the post World War II era when several European states came under Soviet dominion. Nevertheless, Lenin's ideas on relations between socialist states and the Comintern's view on national rights versus the class struggle deserve a brief examination for the light they shed on the contemporary problem of these concepts.

While Lenin rose to the defense of the Soviet state, he still condemned nationalism as one of the many subterfuges designed to obscure the development of the class struggle and to destroy the "international sense of solidarity of the proletariat."³¹ He wrote that: "To be an internationalist, a person must not only think of his own nation, but put above it the interests of all . . . fight against petty national narrowness, isolationism, for the awareness of the whole and the universal, for the deference of private interests to general interests."³² Of course it is true that tactically, this internationalism was to extend only to the non-Soviet Communist parties for the time being, as Lenin felt that in the immediate post-Revolutionary era it was the duty of the world communist parties to build the socialist center, which merely happened to be in Moscow at this stage.

This Moscow-centered internationalism was one of the key principles in the formation of the Comintern on March 2, 1919. At the first meeting in Moscow, the leaders agreed to structure the organization on the basis of a political, ideological, and territorial entity whose interests would transcend those of its various national units. There was to be a central organ with the function of "subordinating the interests of the movement in each country to the common interests of the international revolution."³³ Class struggle was clearly to have precedence over national liberation,

³¹ BRZEZINSKI, *supra* note 12, at 33.

³² G. Ginsburgs, *Socialist Internationalism and State Sovereignty*, in *THE YEAR-BOOK OF WORLD AFFAIRS* 43 (1971).

³³ 1 *THE COMMUNIST INTERNATIONALE*, 1919: DOCUMENTS 5 (J. Degras ed. London 1956).

but it was to be a class struggle directed from Moscow. Since the leaders claimed that the nation was an outmoded institution, national decision-making would have to be eliminated. In the "worldwide Soviet Republic" decisions would be made by the Comintern.³⁴

The centralized form of decision-making by the Russian Communist Party in the Soviet Union was to be followed worldwide by the Comintern. The 1919 Hungarian revolution illustrates this pattern. When Béla Kun established a Hungarian revolutionary regime (composed of socialists and communists), Lenin called on him (and Kun accepted) to ensure that the regime would be Communist instead of Social Democratic while Zinoviev also notified Kun that the Executive Committee of the Comintern expected him and the revolutionaries to establish a Communist party which would clearly give the regime an orthodox Communist program.³⁵ By accepting the orders from the Comintern, Kun thereby recognized it as the retainer of a higher sovereignty than that of any national revolutionary government.

It may of course be justifiably argued that the Bolsheviks anticipated the spread of the revolution to Western Europe and with it an ensuing shift of the center. Nevertheless, as W. Korey has stated, the Bolsheviks saw the Comintern as the focal point of power and their belief in its supranational authority (an aspect which Romania has repeatedly criticized in the 1960's) continued well after all the revolutionary waves in Western Europe abated.³⁶

Even more saliently the Comintern fostered the belief that the "Socialist commonwealth" had the moral right to engage in military intervention in the furtherance of the World Socialist revolution. Zinoviev, who was the expert on intra-party relations, had stated frequently that the Red Army should help if there were a Communist revolution in the Western European countries and that it would be ready to help established Communist regimes.³⁷ The Comintern's Executive Committee promised to send help to

³⁴ V. VOROVSKII, 3 SOCHINENIIA 475 (Moscow 1933), in Korey, *The Comintern and the Genealogy of the "Brezhnev Doctrine"*, PROBLEMS OF COMMUNISM 53 (May-June 1969).

³⁵ ZINOVIEV, 1 KOMMUNISTICHESKII INTERNATSIONAL 83-88 (1919), in Korey, *supra* note 34, at 55.

³⁶ Korey, *supra* note 34, at 55.

³⁷ Zinoviev wrote that the military intervention is to be judged by the criterion of whether it serves the forces of capitalism or those of socialism. ZINOVIEV, 7(1) SOCHINENIIA 15-21 (1920).

Kun's regime in Hungary but the Red Army, although alerted, could not cross the Ukraine because of the White forces present there.³⁸ After this failure to save Kun, Zinoviev advocated intervention into Germany if France became Communist. This built-in rationale for military intervention was accepted and the hegemony of the Russian Communist Party over other parties was never questioned in the Comintern during its existence to 1943. Thus, the sovereignty of nation-states was clearly not a prime concern of the Soviet party theoreticians at this stage of Soviet policy development.

It should be mentioned, however, that there were some Soviet jurists who were concerned with the norms of international law and sovereignty. The eminent jurist E. B. Pashukanis did conclude in the 1920's that the Soviet Union could and did utilize generally accepted norms of international law in conducting its relations with foreign states. In doing so, he expostulated that it imbued them with a new socialist content. He was, nevertheless, handicapped in having to explain how a principle of law applied simultaneously by the U.S.S.R. and a capitalist state could become socialist when only one of the parties was socialist. This was a particularly sensitive problem because of the Marxist concept of law as an instrument of a ruling class. Pashukanis was vigorously attacked for his views on international law and sovereignty and in 1930 was imprisoned, partly for his "weakly based philosophy position on form and content."³⁹

After World War II, with the emergence of several socialist states, gradual polycentrism became virtually inevitable. In 1966, Brezhnev himself acknowledged that each party should have the right to solve the problems facing it in its own way.⁴⁰ Nevertheless, the preservation of Soviet state power and the promotion of its security, accented by the Stalinist principle of "socialism in one state," still characterizes Soviet foreign policy. In 1960, when the Soviets felt that there was an ideological threat from Czechoslovakia, they immediately resorted to Zinoviev's dictum of using force to protect the "socialist commonwealth."

However, since in the immediate post-war era Soviet dominance was so overwhelming and Stalin's prestige so supreme in the newly emerging Socialist bloc, Soviet leadership was not ques-

³⁸ *Izvestia*, Mar. 23, 1919.

³⁹ See, Hazard, *Cleansing Soviet International Law of Anti-Marxist Theories*, 32 *Am. J. Int'l L.* 244 (1938).

⁴⁰ *Pravda*, Mar. 30, 1966.

tioned (with the notable exception of the Yugoslav break in 1948) and concern for state sovereignty was peripheral; the Soviets actually proposing various schemes for integration in Eastern Europe with the sanguine approval of the leaders of those states, including Gheorghiu-Dej of Romania. Milovan Djilas, in his book *Conversations with Stalin*, is convinced that the Soviet leaders were already toying with the idea of reorganizing the Soviet Union by joining to it the "People's Democracies." The Ukraine, according to this plan, would be joined with Hungary and Romania, Byelorussia would be joined with Poland and Czechoslovakia, while the Balkan states would be joined with Russia.⁴¹ Furthermore, the Balkan Union scheme planned by Tito and Dimitrov was also originally encouraged by the Kremlin. An analysis of the reasons for the failure of these schemes is outside the scope of this article, but what is germane here is the Soviets' lack of consideration for national sovereignty and their emphasis instead on Soviet security, or viewed in a very benign light, their concern for the class struggle. Romania's acquiescence to real derogations of its sovereignty at this time illuminates the Soviet bloc's view on international relations immediately after the War. The shifting perspectives of both Romanian and Soviet policy thus imply the existence of considerable flexibility.

Another ingredient that sheds light on present Soviet concepts of sovereignty and international law is manifested by the peculiarly Soviet problem of "double sovereignty:" the sovereignty of the U.S.S.R. (the federation) and that of its member republics. The Soviet jurist B. L. Manelis wrote a text on the subject in 1964 in which he attempted to reconcile the two concepts.⁴² In his view, the federation is sovereign because the attributes of sovereignty were attached to it at its provenance in 1922 and not delegated to it by the member Republics. The Republics in turn, Manelis reasons, did not lose their sovereignty by entering the federation but retained their full sovereign rights. This retention, on the other hand, did not exclude the existence of the complete sovereignty of the federation. Manelis explains this apparent paradox by stating first, that the sovereignty of the federation and that of its members are in organic unity, and secondly, by referring to Lenin's declaration that the Republics preserved their independence on entering the Union, a fact reflected by the provi-

⁴¹ M. DJILAS, *CONVERSATIONS WITH STALIN* 160 (1962).

⁴² B. MANELIS, 7 *SOVETSKOE Gosudarstvo i pravo* 17 (1964), English version in HAZARD, SHAPIRO, AND MAGGS, *THE SOVIET LEGAL SYSTEM* 34 (2d ed. 1969).

sion in the U.S.S.R. Constitution concerning the right of the Republics to secede. Furthermore, this paradox is manifested by the presence of both Byelorussia and the Ukraine as members of the United Nations.

Though the above argument may be confusing it might be somewhat palatable when restricted to the Republics of the Union. In this manner it could indicate that the Union Republics have greater rights, let us say, than the *länder* in the Federal Republic of Germany or the states of the United States. The conundrum is that the arguments of Soviet federalism are being brought forward to support a more cohesive Socialist bloc. Therefore, sovereignty is being redefined to emphasize the interests of the whole community as essential to the preservation of the interests of its parts. An obligation is thus placed upon each Socialist state to aid any other Socialist nation if its Socialist character is threatened. Therefore, the Soviet bloc states would have both their *de jure* and *de facto* positions as sovereign entities moved closer to that of the Soviet republics.⁴³

Such a view on sovereignty, however, is rejected by the Romanians. In their opinion there cannot be a supranational sovereignty and any derogations of national sovereignty are inadmissible. They also speak of an organic unity between the individual Socialist state and the Socialist community as a whole, but they emphasize the interests of the parts for the preservation of the entire community. President Ceaușescu said at the tenth Romanian Communist Party Congress in August 1969 that:

By a world Socialist system, we do not mean a bloc in which states have emerged with an ensemble, giving up their national sovereignty. . . . Solidarity and mutual assistance among Socialist countries imply relations of equality among all Socialist nations and should not lead to interference into the internal affairs of a people.⁴⁴

This vital difference regarding sovereignty between the Soviet Union and Romania bears a direct relationship to Romania's foreign policy autonomy. The two views on sovereignty can perhaps best be understood by looking at the approach of the two countries to international law. Especially in the case of Romania the maintenance of an autonomous foreign policy and the emphasis on her own concept of sovereignty is closely linked to her approach to international law.

⁴³ Hazard, *supra* note 4, at 143.

⁴⁴ Scânteia, Aug. 7, 1969.

Jus Cogens or Jus Dispositivum***

When the new People's Democracies appeared in the wake of World War II, the Soviet Union was faced with the task of clarifying its legal position vis-à-vis other Socialist states. Pashukanis was censured in the 1930's for stating that the Soviet Union could and did utilize generally accepted norms of international law while imbuing them with a Socialist spirit. While only one other Socialist state was in existence (Mongolia) the Soviet Union could not use a Socialist form in relations with the capitalist states. With the appearance of other Socialist states with similar social structures the legal relations between them and the Soviet Union could now have both a Socialist content and form. Therefore, the essential question now is whether the Soviet Union has in fact decided to use "Socialist international law" in its relations with other Socialist states, or whether as a signatory to the United Nations Charter it uses general international law and its core principle of *jus cogens*.

Following the October Revolution, the highest principle of relations between workers of different countries was to be that element which was cardinal for the victory of the proletariat, namely, the principle of Socialist (or proletarian) internationalism. The core of the principle as applied among Socialist states, is defined as the construction of Socialism and Communism and the defense of this achievement in the course of the struggle against the capitalist systems. This in turn entails specific rights and duties for each Socialist state in its relation with other states, among them, the duty to pursue close cooperation and mutual assistance in all spheres of the construction of Socialism and Communism, particularly the economic sphere.⁴⁵

Socialist internationalism also affects a number of subordinate principles, including respect for the sovereignty of Socialist states and non-interference in internal affairs. But, according to Tunkin, all these subordinate principles are subject to the will of the

* A body of overriding principles of international law which cannot be altered by bilateral agreements among states. Its content is supposed to include the prohibition of aggressive war, genocide, trade in slaves, piracy, other crimes against humanity and suppression of the right of self-determination and sovereignty. It includes the U.N. Declaration on Sovereignty over Natural Resources and has the authority of the International Law Commission behind it.

** The concept allows for the alteration of some minor principles through bilateral agreement.

⁴⁵ Tunkin, *supra* note 24, at 16-29. See also, Butler, *supra* note 25,

people: the dichotomy between the Socialist state and the "people" which was referred to earlier.⁴⁶ He wrote that, "the Socialist principle of respect for sovereignty obliges Socialist states not only to respect the sovereignty of other Socialist states but also to defend Socialist sovereignty in accordance with the demands of proletarian internationalism."⁴⁷ Thus again, the Czechoslovak intervention in 1968 could be seen as in accord with the subordinate principles of proletarian internationalism.

The question arises, however, whether or not a Socialist international law based on the principles of Socialist internationalism is extant. Two eminent Western jurists, John N. Hazard and William E. Butler, differ on the matter. Hazard believes that, in the Soviet view, Socialist international law exists now,⁴⁸ while Butler believes that the Soviets regard Socialist international law as merely emerging so that currently there are only Socialist principles of international relations.⁴⁹

Tunkin, possibly the most influential Soviet expert on international law in the post-war era, has insisted that there is in existence a body of general international law which should be taught to the new Soviet generation and used in foreign relations, for he feels that this body of general international law has evolved to the point where it no longer contains those principles under which it had earlier supported colonialism. This law, in his view, is moving toward the development of a law of peaceful coexistence. Tunkin also expostulated that another system was growing up along side general international law, that of the "fraternal" relations of proletarian internationalism. It is true that he refers sparingly to the phrase "Socialist international law" and he does describe proletarian internationalism as a moral and political principle. But, in his text, *International Law*, published in 1962 and revised in 1970,⁵⁰ he emphasizes this new law which uses only the terminology of the principles of general international law and in fact establishes a new law among Socialist states.

Some other Soviet jurists have rejected such an approach to international law. Dr. V. M. Shurshalov has written that the Socialist states in relations with one another are "applying the principles and rules of international law and simultaneously filling

⁴⁶ Tunkin, *supra* note 24, at 27.

⁴⁷ *Id.*

⁴⁸ HAZARD, SHAPIRO, AND MAGGS, *supra* note 42, at 29-32.

⁴⁹ Butler, *supra* note 25, at 797.

⁵⁰ Tunkin, *supra* note 24.

the old form with a new socialist content."⁵¹ Thus, the form of the law does not change in relations between Socialist states. L. A. Aleksidze, writing in the 1967 *Soviet Yearbook of International Law*, similarly does not distinguish between the principles of Socialist international law and the general international legal principles of *jus cogens*. Moreover, he maintains that generally recognized norms of contemporary international law have an imperative character which includes, "principles strengthening the fundamental sovereign rights of states and peoples: . . . respect for state sovereignty and territorial integrity. . . ."⁵²

Nevertheless, it seems that since the 1970 meeting of the Soviet Society of International Law, Tunkin's view that a new Socialist international law has emerged which is new both in content and form has prevailed.⁵³ Further support for Tunkin is also rendered by Professor V. I. Lisovskii, who finds that in its relations with other Socialist states the U.S.S.R. conforms to principles of "Socialist international law" which are anchored in the concept of proletarian internationalism.⁵⁴

There is further substantial evidence to support the Hazard view that the Soviets have accepted a "Socialist international law" (with its emphasis on the general "Socialist commonwealth") in their relations with other Socialist states. Soviet intervention into Czechoslovakia, for instance, could be fitted into the framework of this new law, and indeed Tunkin does so. He writes, "The events of 1968 in Czechoslovakia have shown how dangerous for the cause of Socialism can be the manifestations of nationalism in conditions of the activization of anti-imperialist forces in a country together with the active support of imperialist reaction."⁵⁵

According to this view, the new law is in line with proletarian internationalism, but it is quite different from general international law, especially as regards the salient concept of sovereignty. Tunkin writes that both general and Socialist international law respect the concept of sovereignty, but that the two understand it

⁵¹ Hazard, *supra* note 4, at 143.

⁵² L. Aleksidze, *Problema jus cogens v sovremennom mezhdunarodnom prave*, in S.E.M.P., 1969 at 144 (1970). Cited also in Butler, *supra* note 25, at 799.

⁵³ HAZARD, SHAPIRO, AND MAGGS, *supra* note 42, at 33.

⁵⁴ V. LISOVSKII, *MEZHDUNARODNOE PRAVO* (1970), in Hazard, *supra* note 4, at 144.

⁵⁵ Tunkin, *supra* note 24, at 25.

differently.⁵⁶ As we have seen, Socialist international law includes the principle that those things that are held to constitute capitalistic inroads in a Socialist society may be legally prevented. At the same time, Socialist states insist upon maintaining the principle of sovereignty as developed in general international law when speaking of relations between themselves and capitalist states. This dual approach, even if it represents as Butler says, merely principles of Socialist international relations, appears to strike at the general concept of *jus cogens*, the inability of the parties involved to change the law. A double set of laws poses a very dangerous trap for the Socialist states in Eastern Europe, especially for Romania which has attempted to safeguard its sovereignty on all possible occasions. But, there may be some defenses.

The possible pivot of the defense here may be turned on the Soviet claim that they respect *jus cogens*. Even Tunkin admits to the supremacy of the principles of *jus cogens*:

As is well known, the difference between the principles of *jus cogens* and other principles and norms of international law consists of the fact that derogation from them on the basis of bilateral agreements between states is not permitted. The Vienna convention on the law of treaties of 1969 speaks only of the interrelationship between international agreements (it would be more specific to talk of local international agreements) and the principles of *jus cogens*, but also the provisions of the convention could be equally applicable to the relationship of customary local international norms and the principles of *jus cogens*.⁵⁷

Nevertheless, Tunkin claims that Socialist international law, being different from general international law, may be applied without serving to contravene *jus cogens*. He argues first, there would be a specific norm of a general law, being locally applied, and second, the local norm would hold precedence over the general norm.

The first proposition rests on the principle that *lex specialis derogat generalis*. Socialist law would be a specific form of international law. Tunkin writes:

In accordance with the well known proposition according to which a special norm squeezes to the corner a general norm,

⁵⁶ Tunkin, *supra* note 4, at 493-495.

⁵⁷ Tunkin, *Sovetskii Ezhegodnik Mezhdunarodnogo Prava*, (S.E.M.P.).

in those situations when we have [pertinent] socialist principles and norms, they shall operate. . . .⁵⁸

Yet, in view of what Tunkin has written it is rather difficult to see Socialist law as a specific form of the general international law.

Tunkin's second argument is that *jus cogens* allows for the "progressive development of international law and the creation . . . of local international norms which go far beyond the norms of the general international . . . and are a reflection of a higher stage of international integration, than general international law."⁵⁹ It would be difficult to say that this is merely a matter of international interpretation, for when the operation of Socialist international law and proletarian internationalism is taken into account it amounts to an alteration of the substance of *jus cogens*. As William Butler has said, it is doubtful that many jurists will find the labelling of a particular norm "higher" than *jus cogens*, a persuasive argument when the local norm seems intended to permit that which *jus cogens* would proscribe. Thus, there are gaps in the Soviet argument which should allow for considerable interposition of doctrinal defenses by those faced with "Socialist international law."

The Romanian approach to the question of international law and sovereignty is considerably different from that of the Soviet Union. The Romanian "Declaration of Independence" in 1964, issued in the face of Soviet pressures for integration, called for national independence and sovereignty and equality among states.⁶⁰ The present Romanian view also emphasizes national sovereignty and general international law. Dr. Ion Voicu, writing in *Era Socialistă* in 1973, claims that the norms of contemporary law give juridical expression to the imperatives of peace and security among countries and peoples.⁶¹ And, of the principles which form the substance of international legality, he considers sovereignty to be of overwhelming importance in our epoch. Moreover, he feels that the activation of the other principles, of correlative rights and duties which belong to the members of the international community, is dependent upon respect for sovereignty.

⁵⁸ Tunkin, *supra* note 4, at 504-505; see also Chris Osakwe, "Socialist International Law Revisited," 66 AM. J. INT'L L. 596-597 (1972).

⁵⁹ Tunkin, S.E.M.P. (1969), at 28.

⁶⁰ *Scântea*, April 26, 1964.

⁶¹ Voicu Ion, "National Sovereignty and the Doctrine of International Law," *Era Socialistă*, (Bucharest) Sept. 18, 1973, at 41.

It should be pointed out however, that respect for general international law and sovereignty does not make the Romanian views *pro tanto* antipodal to those of the Soviet Union, for the latter also professes to respect these principles. It is rather the Romanian interpretation of these principles which shows the difference. President Ceaușescu said in 1970 that, "People see and desire to see in the relations among Socialist states the prototype of the relations of tomorrow, of the day when Socialism will triumph in the whole world, that is full equality in rights [of states], respect for national independence and sovereignty."⁶² He does not refer to the existence of any form of Socialist international law but merely Socialist relations among states and includes a great deal of emphasis on individual state sovereignty instead of commonwealth sovereignty. Thus, the Romanian leader attaches a significantly different meaning to legal and quasi-legal terminology than is done in the Soviet Union.

Despite frequent references to Socialist or proletarian internationalism, the international law that Romania subscribes to is general international law. The U.N. Charter seems to be the highest point of reference together with the principles of *jus cogens* that is associated with it.

The Romanian delegate to the U.N. Legal Conference in 1972, Dumitru Ceasu, for instance, declared that there should be a clear definition of terms in international law:

No reasoning, be it of a political, military or economic nature, be it related to the internal or external policies of a state can serve as justification for the use of arms against another state.⁶³

He also said that national territory is inviolable and that no occupation, not even a temporary one, regardless of motives given, can be condoned. Ceasu, in a way was merely reiterating the views of President Ceaușescu, who declared following the Czechoslovak intervention that no motive could justify intervention by a Socialist state into the affairs of another.⁶⁴

The key writers on international law and relations in Romania such as V. Ducelescu, C. Vlad, I. Maxilu and G. Moca invariably refer to the U.N. Charter to justify their concepts of law among

⁶² N. Ceaușescu, quoted by C. Lăzărescu, "Sovereignty," *Lupta*, April 1970, at 8.

⁶³ D. Ceasu, *Scântea*, Nov. 4, 1972.

⁶⁴ *Scântea*, Aug. 22, 1968.

nations as well as to Marxist-Leninist doctrine. Duculescu tries to enhance the importance of sovereignty by stating that significant resolutions of the U.N. could only have been adopted by taking into account the interests of national sovereign states.⁶⁵ Similarly, Moca, in his book *State and Sovereignty*,⁶⁶ attempts to bolster his arguments on sovereignty by citing the Declaration of the 25th Anniversary Session of the U.N. General Assembly of 1970 which specified that states cooperate in accordance with the principles of sovereign equality and non-interference in internal affairs.⁶⁷ This ties in well with what Ceaușescu said in 1969, namely, that there must not only be respect for the U.N. Charter, but that there is only one international law for all countries.⁶⁸ This, of course, hardly fits in with Tunkin's arguments of a specific Socialist international law.

Perhaps the best exposition of Romanian views on the principles of international law and relations has been put forward by Alexandru C. Aureliu in his book, *The Principles of Relations Among Nations*.⁶⁹ He states that all countries, irrespective of their area, the size of their population, their political or economic power, are equal in their exercise of sovereignty and rights.⁷⁰ In turn he feels that sovereign equality consists of the following principles: a) relations between states that must be based on free expression of the will of these states; b) states must enjoy equal rights to participate in the examination of the international problems which affect them; c) each state must be individually in a position to decide whether an international problem is within its interest, and this decision does not have to take into consideration the interests of another state; d) in the framework of international relations and treaties, states must occupy equal judicial positions; e) in international conferences and organizations, states should have equal rights to participate in debate and have equal roles; f) the decisions of such meetings can bind only those states which have declared

⁶⁵ V. Duculescu, "The Sovereign State in International Relations," *Era*, No. 13, July 1973.

⁶⁶ G. Moca, *Suveranitatea de Stat Teorii Burgeze Studii Critic*, (State Sovereignty: Critical Study of Bourgeois State Theories), *Editura Politica*, (Bucharest), 1973.

⁶⁷ *Id.* at 108.

⁶⁸ N. Ceaușescu, cited by I. Cloșca in "The Necessity for a Negotiated Settlement of International Issues," *Lupta*, Feb. 1969.

⁶⁹ A. C. Aureliu, *Principiile Relatiilor Dintre State*, (The Principles of Relations Among States), *Editura Politică*, (Bucharest), 1966.

⁷⁰ *Id.* at 106.

themselves ready to adopt these decisions; and, g) non-interference in the affairs of another state, which constitutes one of the basic principles of contemporary international law.⁷¹

The whole concept of a centrally directed "Socialist commonwealth" is anathema to Romania. There is a constant reiteration of this rejection of a center in all Romanian literature and it is bound to permeate Romania's relations with the Soviet Union. A May 1967 editorial of *Lupta de Clasă* stated that the position of each Communist party as the vanguard political force of the working class cannot be made compatible with the existence of an international coordinating center. The Romanians are also quick to cite the Moscow Declaration of June 1969 which stated in its final document that, "each party, guiding itself upon Marxist-Leninist principles, keeping in mind the concrete national conditions, elaborates its policies in a totally independent way."⁷² Romania insists that her own Communist party is the best judge of problems in the country and that there should be no outside interference whatever.

Such an approach to Socialist internationalism and to "Socialist commonwealth" cohesion apparently stems from Romania's attitude towards the dialectical conflict between class struggle and national liberation rights. It is interesting to note how much greater emphasis her theoreticians place on the latter. Gheorghe Moca, in his book *The State and Sovereignty*, which was favorably received in China and Yugoslavia, expressed the Romanian view of the present epoch when he stated that at the moment there are two trends in international relations: imperialistic states are seeking to impose their own hegemonic will by means of their great relative power while, on the other hand, small and middle-sized states are increasingly demonstrating their desire to assert their sovereign rights.⁷³

The Secretary General of the Editorial Board of *Lupta de Clasă*, C. Lăzărescu, similarly asserted that contemporary international life is characterized by the struggle between the "advanced" anti-imperialist forces and the "reactionary" forces of imperialism.⁷⁴ Professor Ioan Ceterchi has also declared at the recent IXth World Congress of the International Political Science

⁷¹ *Id.* at 106-123.

⁷² Quoted by A. Rosetti, *Scânteia*, June 20, 1969.

⁷³ Moca, *supra* note 66, at 133.

⁷⁴ C. Lăzărescu, "The Evolution of the Contemporary World and The Principles of International Relations," *Lupta*, Sept. 1967, at 14.

Association that the current world fight against what he called the quest for world domination by some powers, and the struggle for the achievement of national unity combine to form an integral part of the general fight against imperialism. Moreover, he asserted that the transition from capitalism to socialism is "indissolubly linked with the necessity of the assertion of the nation at a higher level and linked to a national revival."⁷⁵ From this emphasis on the national unit as opposed to the universality of the class struggle it would then logically follow that Romania would lean more toward general international law and the security of *jus cogens* than toward recognition of a regional application of Socialist international law.

Again, this is not to say that Romania *ab initio* rejects proletarian internationalism. The term is used very frequently, but as was previously mentioned the meaning is different from that which is understood by Soviet theorists such as Tunkin. The flow of strength is from the particular to the general. As Constantin Vlad stated in his paper at the 1972 Prague Conference, Romania pursues a foreign policy which it believes to serve its own fundamental interests and implicitly the cause of the national and social liberation of all people.⁷⁶ In this sense, and in this sense only, national and international interests in Romania are blurred.

Another key caveat must be made at this stage. Romania does not enter into direct confrontation with the Soviet Union. As divergent as her views may be from the norm in the Soviet bloc, she presents them obliquely and gradually. To use communications theory terminology, she sends out an extended signal. The dissimilarities in these views on the separation of the nation-state and the people and on the content and applicability of Socialist international law in the "Socialist commonwealth" are also presented circuitously by Romania. She incorporates as much as possible of the Soviet view into her theories and attacks the rest indirectly — usually by criticizing Western proponents of "limited sovereignty" and of world integration and government. This esoteric form of communication coupled with partial incorporation should be a most effective element for the defense of foreign policy autonomy by a smaller Soviet bloc state.

Socialist Integration or Socialist Cooperation?

The integration of the Soviet bloc has been advocated at vari-

⁷⁵ Ceterchi, *supra* note 22.

⁷⁶ C. Vlad, *World Marxist Review*, (Belgrade), July 1972.

ous times and to various degrees by Soviet leaders in the post-war era. The two main cooperative organs in Eastern Europe, the Warsaw Pact and Comecon, have likewise been altered to try to aid these aims. Some of the most influential Soviet jurists have also provided legal-theoretical bases for integration besides the initial Marxist-Leninist doctrine of world working class solidarity. G. I. Tunkin for instance, feels that certain rights and duties are derived from the principles of proletarian internationalism for Socialist states in relations with each other, among them the duty to pursue close cooperation.⁷⁷

Professor Lisovskii, a Tunkin ally, elaborates on this argument by referring to Brezhnev's speech at the 23rd Soviet Communist Party Congress in 1966 when Brezhnev had said in effect, that the national economies of the Socialist states must be integrated to provide for specialization and cooperation of production in order to keep abreast with the technological revolution and with capitalism.⁷⁸ Moreover, Lisovskii feels that the East European commercial treaties, the Warsaw Pact and the treaties of friendship, mutual aid and cooperation show that the Socialist states could not limit themselves in their mutual relations to the application of generally accepted principles of international law. Yet, to the Romanians, who insist on strict adherence to general international law, such an attitude remains patently unacceptable.

In effect, it was Khrushchev's attempt at rationalization of production in the Soviet bloc that brought the Soviet-Romanian differences out into the open. The Romanians refused to subscribe to supranational planning and in 1964 issued their "Declaration" which rejected any such planning or restructuring of Comecon into a supranational organization as an infringement of their sovereignty and as being contrary to what they perceived to be the essence of Marxist-Leninist doctrine.

Of course, the Soviets have always maintained that neither the Warsaw Pact nor Comecon are supranational organizations. Indeed, Comecon has an ad hoc type of structure and the Romanians in objecting to the proposal to give it greater planning and integrating functions were opting for a status quo which is formally praised by the Soviets. As a result, even in 1971, when they finally subscribed to Comecon's comprehensive integration program adopted at Bucharest in July of that year, the Romanians stressed that in their understanding Socialist integration is dif-

⁷⁷ Tunkin, *supra* note 24, at 25.

⁷⁸ Lisovskii, *supra* note 54, at 51.

ferent from capitalist integration, for the former does not mean any infringement upon national independence and sovereignty and does not lead to the setting up of bodies for supra-state planning and organization. The report of the agreement in the official R.C.P. organ, *Scântea* stated:

The program endorsed reasserts the principles of the Comecon charter, which proclaims that this body was founded on the basis of sovereign equality of the member states [and] proceeds according to the principles of fully equal rights, observance of national sovereignty and interest, mutual advantage and assistance.⁷⁹

The chief writers on the question of sovereignty, such as Professors Ceterchi, Vlad and Paruta, all agree that, while cooperation is valuable, it cannot be used to derogate from national sovereignty or to set up supranational organizations. Ceterchi warns that cooperation must not be equated with the internationalization of the forces of production by the transfer of part of the state sovereignty to international organizations. And, in cooperation, he again warns that all relations between states should be based on the *fundamental principles of contemporary international law*.⁸⁰ [Emphasis supplied]

Professor Vlad in turn attacks Western proponents of integration such as Zbigniew Brzezinski.⁸¹ He contends that a state must develop its economy as a national economy. Integration is to come only as a requirement of "determinism," for if it is forced, it is liable to undermine the national life of the people.⁸² Thus, in Vlad's view, increased cooperation is to come at the pace of the specific Romanian needs and not those of the Soviet Union or the "Socialist commonwealth."

Mihai Paruta also warns that the principles of collaboration and "comradely assistance" cannot be opposed to the principle of sovereignty, equality of rights, and non-interference in domestic affairs.⁸³ In his opinion, "comradely assistance" cannot be conceived without full equality of rights and the latter "necessarily implies strict observance of independence and sovereignty, as well as mutual non-interference in domestic affairs."⁸⁴

⁷⁹ *Scântea*, Aug. 1, 1971.

⁸⁰ Ceterchi, *supra* note 22.

⁸¹ VLAD, *supra* note 19, at 180.

⁸² *Id.* at 92.

⁸³ Mihai Paruta, "Setting International Economic Relations on A New Basis," in *Viața Economică*, (Bucharest), No. 41, Oct. 12, 1973.

⁸⁴ *Id.*

The assumption in this preoccupation with national sovereignty is that by strengthening the nation economically, the Socialist world as a whole is strengthened. Again, it is a flow from the particular to the general, antithetical to the Soviet view. The manner in which this flow is to take place is explained by Ilie Rădulescu who completes the blanket coverage that Romanian theoreticians have given to integration. He wrote in 1973 that:

Internal revolutionary forces have a decisive role in changing society on a social basis within the dialectical relationship between the national factor and the international; in fact the national factor, the internal development of the countries and the increase in their economic and technical-scientific potential, are responsible for the viability of the international factor.⁸⁵

This reasoning is applied by Romania in its relations with the Warsaw Pact. Not only has it refused to recognize any supranational qualities in the Pact, but it has also criticized the military bloc concept by attacking NATO and has carried on an independent military policy which, it claims, simultaneously strengthens the entire Socialist bloc through the process of strengthening Romanian defense.

In regard to the conundrum of Socialist integration, it should be remembered that despite its differences with the Soviet Union, Romania has avoided direct confrontation. Any attacks on Soviet concepts have been indirect, usually consisting of demolishing a Western "straw-man." Communication with the Soviets is again esoteric. In formulating their arguments the Romanians, as seen in the works of Ceterchi, Vlad, Paruta and Rădulescu, have also been skillful at "restriction through partial incorporation." As both Romanian and Soviet policies have gone through shifting perspectives of international relations and law, there is considerable room to maneuver.

Conclusion

There are clearly real differences between the Soviet Union and Romania on the broad concept of sovereignty. They disagree on the hypothesis of a dichotomy in the views and aims of the state on one hand and the people in a Socialist country on the other. Similarly, they differ on the content and applicability of Socialist international law, with the Soviet Union declaring that such interventions as that into Czechoslovakia fall within the legal-

⁸⁵ Ilie Rădulescu, "The National and the International Aspects of Contemporary Economic Collaboration," *Probleme Economice*, No. 8, Aug. 1973.

ity of Socialist concepts while Romania maintains that only general international law is applicable and that no derogation of sovereignty is admissible. They also differ in the dilemma posed by the necessity of emphasizing either the international class struggle or national liberation. Whereas the Soviet Union leans toward the former, Romania is emphatically on the side of national liberation and sovereignty. As far as integration is concerned, the two parties are also far apart. While the Soviet Union favors increased integration in the Socialist world with added specialization of production and more joint international projects, Romania is opposed to anything but minimal supranational cooperation and vehemently opposes the creation of any supranational structure. While both see an organic unity between the national and the international in the Socialist world, the Soviets see the flow of strength from the general to the particular, whereas the Romanians cling to the opposite view.

Nevertheless, it should not be believed that the Soviet position, *pro tanto* excludes that of Romania. The Soviet Union does hold views similar to those of Romania on the endurance of the nation-state. It should also be remembered that the Soviets are signatories of the U.N. Charter and have admitted that general international law is no longer simply bourgeois law. Even Tunkin is reluctant to reject outright the principle of *jus cogens* and instead has tried to alter it by interpretation. And, similarly, it should be recognized that the Soviets, despite their efforts at Socialist integration, still do not formally admit to supranationality. Thus, there are grounds for compromise if Romania is skillful enough.

Despite her independent stance in foreign affairs, Romania has avoided direct confrontations with the Soviet Union. Her assertions of independence, her insistence on sovereignty in terms of general international law have not been made through overt attacks on conflicting Soviet concepts. Rather, there has been an esoteric type of communication where Romanian theorists have used very abstract forms to attack Western scholars who expounded identical concepts to those put forth by the Soviet Union. Very significantly, the Romanians have also used the concept of exclusion through partial incorporation by repeatedly resorting to Soviet pronouncements to defend themselves.

Tunkin was once asked whether the principle of proletarian internationalism was applicable in connection with Soviet relations with the Peoples' Republic of China. At this point he stated that the principle was a moral and a political one of the

international workers' movement,⁸⁶ thereby, seemingly excluding the prospect that the Socialist countries had a legal obligation to intervene against the offending Chinese leadership despite the fact that the interests of the people of China and other Socialist states are supposed to be identical. What Romania may hope then, is that with skillful diplomacy the Soviet Union may allow it the same legal position as that of the Peoples' Republic of China.

⁸⁶ Tunkin, *supra* note 24, at 28.